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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,679	09/08/2000	Marc A. Edlein	D-43378-01	2639

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[REDACTED] EXAMINER

NOLAN, SANDRA M

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1772

DATE MAILED: 04/24/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicant No.</b>	<b>Applicant(s)</b>	
	09/657,679	EDLEIN ET AL. <i>[Signature]</i>	
<b>Examiner</b>		<b>Art Unit</b>	
Sandra M. Nolan		1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 February 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-55 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,4-10,12,13,17-27,30-35,37,38 and 42-55 is/are rejected.

7) Claim(s) 3,11,14-16,28,29,36 and 39-41 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Claims***

1. Claims 1-55 are pending.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 24 February 2003 (Paper No. 11) was considered by the examiner.

### ***Rejections Withdrawn***

3. The 35 USC 102 rejection of claims 1, 2, 6-9, 19-20 and 27-28, 33-34, 37, 42, 44, 45-47, and 54-55 as being anticipated by Mossbrook (US 6,231,953; filed February 9, 1999) is withdrawn in order to apply the new rejection based on Mossbrook below.

4. The 35 USC 103 rejection of claims 1-7, 11-19, 25-32, 34, 36-45 and 52-55, as being unpatentable over Mossbrook in view of Kawahata et al (US 5,019,202), is withdrawn in view of applicants' arguments in the 24 February 2003 response (Paper No. 12).

5. The 35 USC 103 rejection of claims 1-10, 12-13, 16-35, 37-38, and 40-55 as unpatentable Dionne (CONVERTING Magazine, January 1, 1998, pp. 2-3) in view of Lu (US 5,451,460) is withdrawn in view of applicants' arguments in Paper No. 12.

### ***New Rejections***

#### **Claim Rejections - 35 USC § 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1772

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2, 4-9, 12-13, 17, 18-20, 23-27, 30-34, 36-38, 42-46, and 50-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Mossbrook (US 6,231,953)

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Mossbrook teaches multilayer films in which one layer contains an antifog agent and a radiation cured layer is applied thereover. See col. 2, lines 62-64, col. 8, lines 12-17 and col. 5, lines 14-20 and col. 9, lines 7-10. The films have total free shrink of at least 10% (col. 8, line 42). The films can be used to overwrap plastic or foamed trays (col. 9, lines 51-52).

The other properties recited in the rejected claims are deemed inherent in view of Mossbrook's use the same inks/varnishes on the same substrates.

The examiner deems the e-beam cured coatings of Mossbrook to be both inks (i.e., coatings with colorants) or varnishes (i.e., coatings with or without colorants).

The Mossbrook films are used to package celery (col. 9, line 31), which is a moisture-containing food.

The Mossbrook films contain antifog layers (col. 8, lines 12-17).

The Mossbrook films contain reactive monomers (col. 6, lines 19-31) and reactive carrier resins (col. 10, lines 49-50).

The Mossbrook films are useful in embodiments involving overprinted coatings (col. 10, lines 41-47 and claim 4 of the patent).

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 21, 22, 47 and 48 are rejected under 35 U.S.C. 103(a) as being obvious over Mossbrook.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the

application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Mossbrook is discussed above.

It fails to teach the electron beam (“e-beam”) parameters of claims 21-22 and 48-49 or the free radical mechanism of claim 47.

However, these limitations do not distinguish these claims from those rejected above because the e-beam and free radical limitations are process limitations which cannot serve to render claims to films patentable over prior art that otherwise suggests/teaches the films claimed.

Furthermore, it is deemed a matter of engineering choice to employ suitable e-beam parameters and reaction mechanism when curing the films of Mossbrook in order to produce films having specific properties.

10. Claims 10-11, 14-16, 35-36, 39 and 40 are rejected under 35 U.S.C. 103(a) as being obvious over Mossbrook in view of Qinghong et al (US 6,046,330).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Mossbrook is discussed above.

It fails to teach UV curable inks.

Qinghong teaches UV curable inks (claim 15 of the patent) having excellent anti-fogging properties (abstract) made by incorporating UV absorbers into them.

The patents are analogous because they both deal with radiation curable inks.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the UV absorbers of Qinghong as curing assistants in the inks, varnishes and coatings of Mossbrook in order to make them UV curable.

The motivation to employ the UV absorbers of Qinghong in the inks of Mossbrook is found in the Qinghong abstract, where the superior anti-fogging properties of the UV-cured inks are taught.

It is deemed desirable to produce films that have anti-fogging properties in order to make them more aesthetically pleasing.

***Allowable Subject Matter***

11. Claims 3, 11, 14-16, 28, 29, 36, and 39-41 are dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to teach or suggest films having the features recited in these claims.

***Response to Arguments***

12. Applicants' arguments with respect to claims 1-2, 4-10, 12-13, 17-27, 30-35, 37-38 and 42-55 have been considered but are moot in view of the new ground(s) of rejection.

The examiner notes applicants' arguments, on pages 1-3 of Paper No. 12, concerning their position that Mossbrook does not teach radiation-cured inks.

At col. 9, lines 7-11 of Mossbrook, it teaches that its films can be irradiated to induce crosslinking between molecules of the polymers contained therein. However, in the absence of convincing objective evidence to the contrary, Mossbrook's "crosslinking" is deemed to be curing, so that its coatings and films are cured by radiation.

***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.

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